



Department
for Environment
Food & Rural Affairs

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www.defra.gov.uk

Your ref:
Our ref: RFI 5770
Date: 10 September 2013

Dear [redacted]

REQUEST FOR INFORMATION: Correspondence with Waverley Council regarding your enquiries about a possible diesel “ban”.

Thank you for your email request for information about the above matter, which we received on 19 August. Your email included comments regarding previous correspondence from Defra and also a request for copies of correspondence Defra had had with Waverley Council regarding your enquiry above as well as a copy of any correspondence from the Council back to Defra in relation to your enquiry. This part of your request has been handled under the Environmental Information Regulations 2004. I have responded to each part of your request below.

Irrational Measure

With respect to the actions you can take if you are concerned about any policies or actions proposed by your Council. As explained in my email of 15 August there are several courses of action that are available to you before seeking judicial review of a Council decision. These include: making a complaint to the LA through their formal complaints system; asking your local councillor or relevant cabinet member to intervene; asking your local MP to intervene (either locally or by writing to the Secretary of State for Communities and Local Government); or referring the matter to local govt ombudsman.

Disclosure of Personal Data

You asked for a copy of what was exactly disclosed to Waverley Council by Defra as well as a copy of any correspondence from Waverley Council back to Defra in relation to your enquiry. The information concerned is attached.

Please note that some of this information has been withheld for the following reason as it is personal information. We consider that disclosure of this information is likely to breach the first data protection principle in Schedule 1 to the DPA, which relates to the fair and lawful processing of personal data, in two ways. First, disclosure would not constitute ‘fair’



processing of the personal data, second, disclosure would not satisfy any of the conditions for data processing set out in Schedule 2 to the DPA Therefore, we have concluded that this information is exempt from disclosure.

Initial drafts of correspondence

Please note that the information provided includes initial drafts of replies to your correspondence. You should note that this information is provided for completeness only the final correspondence you received represents the official record in every case.

You should also note that in the email dated “Wednesday 01 May 2013 15:18” there is reference to “whether the Council’s proposal will take into account Diesel vehicle fitted with Euro 6 as banning these would go counter to Government policy on cleaning up the diesel transport.” This statement is misleading as the Government does not have a position with respect to this matter. Therefore you should disregard this comment.

In keeping with the spirit and effect of the EIRs, and in keeping with the government’s Transparency Agenda, all information is assumed to be releasable to the public unless exempt. Therefore, the information released to you will now be published on www.gov.uk together with any related information that will provide a key to its wider context. Please note that this will not include your personal data.

Procedures on handling personal data, You also asked what procedures had been put in place to prevent future errors in handling personal data. For your information when handling similar requests of this nature, it is our procedure to ensure the following:

- personal details are not shared with another agency, unless it is a central Government Department and it is necessary to establish if they have received the same request;
- where it is necessary to share personal details with an external agency this is only done where it does not form a breach the Data Protection Act (in particular the 1st data protection principle and Schedule 2);
- expressed consent must be obtained from the party concerned (which means they have actually said yes, rather than just not objected), before disclosure to a third party would not be regarded as breach of the DPA; and
- Where original correspondence is disclosed to a third party, personal data must be redacted before disclosure.

Finally you asked if Defra could request the retrieval of information disclosed to Waverley Council or the redaction of information from the Council's database so that any record of the wrongfully disclosed information was removed or destroyed by Waverley Council. I have written to Waverley Council regarding this request but have not yet had a response on this point. Once I obtain confirmation of what action has been taken regarding this request I will write to you again to let you know.

I attach Annex A, which explains the copyright that applies to the information being released to you.

I also attach Annex B giving contact details should you be unhappy with the service you have received.

If you have any queries about this letter, please contact me.

Yours sincerely

[redacted]

National and Local Air Quality

Annex A

Copyright

The information supplied to you continues to be protected by copyright. You are free to use it for your own purposes, including for private study and non-commercial research, and for any other purpose authorised by an exception in current copyright law. Documents (except photographs) can be also used in the UK without requiring permission for the purposes of news reporting. Any other re-use, for example commercial publication, would require the permission of the copyright holder.

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Annex B

Complaints

If you are unhappy with the service you have received in relation to your request you may make a complaint or appeal against our decision under section 17(7) of the FOIA or under regulation 18 of the EIRs, as applicable, within 40 working days of the date of this letter. Please write to Mike Kaye, Head of Information Standards, Area 4D, Nobel House, 17 Smith Square, London, SW1P 3JR (email: requestforinfo@defra.gsi.gov.uk) and he will arrange for an internal review of your case. Details of Defra's complaints procedure are on our [website](#).

If you are not content with the outcome of the internal review, section 50 of the FOIA and regulation 18 of the EIRs gives you the right to apply directly to the Information Commissioner for a decision. Please note that generally the Information Commissioner cannot make a decision unless you have first exhausted Defra's own complaints procedure. The Information Commissioner can be contacted at:

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF